

UNITED STATES DISTRICT COURT

District of Delaware

UNITED STATES OF AMERICA

V.

Marques Comer

Defendant

ORDER OF DETENTION PENDING TRIAL

Case

CR07-134-UNA.

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I—Findings of Fact

- ☐ (1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has been convicted of a ☐ federal offense ☐ state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed that is
- ☐ a crime of violence as defined in 18 U.S.C. § 3156(a)(4).
- ☐ an offense for which the maximum sentence is life imprisonment or death.
- ☐ an offense for which a maximum term of imprisonment of ten years or more is prescribed in _____.
- ☐ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses.
- ☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
- ☐ (3) A period of not more than five years has elapsed since the ☐ date of conviction ☐ release of the defendant from imprisonment for the offense described in finding (1).
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings (A)

- (1) There is probable cause to believe that the defendant has committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in _____.
- ☐ under 18 U.S.C. § 924(c).
- ☐ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings (B)

- (1) There is a serious risk that the defendant will not appear.
- (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

Part II—Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by ☒ clear and convincing evidence ☒ a preponderance of the evidence: Defendant is charged with possession of a firearm and ammunition by a felon in violation of 18 USC §§ 922 & 924. The court found that there are no conditions or combination thereof that will reasonable assure defendant's appearance as required and the safety of the community on the following bases:

1. the evidence against defendant is strong. the weapon was found in his room of his parents home and defendant admitted that the rifle and ammo were his. His admission is contested.
2. Although defendant is a lifelong resident of De with substantial ties to this community, within the past 6 months he has had two FTAs.
3. Defendant has held two positions of employment – one part time for the past 6 months and the other full time employment for the past 9 months.
4. Defendant attended Pathways counseling for substance abuse treatment– he admits that alcohol is his drug of choice (began drinking at age 13). He claims that he has been sober for 8 months.
5. At the time of his arrest defendant was on state probation for DUI (arrest for DUI occurred in April 2007 for which he was required to undergo substance abuse treatment). Previously he was convicted of conspiracy 2nd (pled down from attempted robbery- defendant's co-defendant was his brother who I still incarcerated for the offense). In April 2007 he was also arrested for maintaining a vehicle for keeping controlled substances for which he pled guilty (also on state probation for this offense). In May 2007, he was arrested and charged with possession of MJ. That charge is presently pending in New Castle CCP. Further besides the two recent FTAs, defendant has two other FTAs and a total of 37 arrests/capitales. Defendant is only 24 years old.

OCT 24 2007

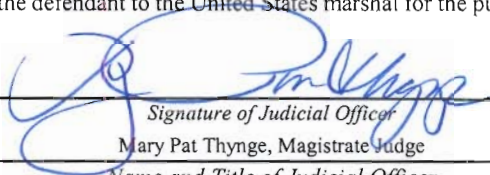
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Part III—Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

October 24, 2007

Date



Signature of Judicial Officer

Mary Pat Thyng, Magistrate Judge

Name and Title of Judicial Officer

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 *et seq.*); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

FILED
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